

Village of Irvington
Zoning Board of Appeals

Minutes of Meeting held March 23, 2004

A meeting of the Zoning Board of Appeals of the Village of Irvington was held at 8:00 P.M., Tuesday, March 23, 2004, in the Trustees' Meeting Room, Town Hall, Irvington, N.Y.

The following members of the Board were present:

Louis C. Lustenberger, Chairman
Robert Bronnes
Bruce E. Clark
Christopher Mitchell
Arthur J. Semetis

Mr. Lustenberger acted as Chairman and Mr. Mitchell as Secretary of the meeting.

Minutes for the Board's meeting of February 10, 2004 were approved.

There were two continuations and five new matters on the agenda.

Continuations

2002-29 Ruth Nicodemus and C.M. Pateman & Associates - Mountain Road (Sheet 11; Lot P27K) Seeking a variance from Article XV (Resource Protection) of the Zoning Code to permit the construction of one single-family residence and an interpretation or variance from section 243-11A (yard requirements).

2003-27 James Lundy and Martha Chamberland - 31 East Clinton Avenue (Sheet 14; Block 223; Lot 15 & 15A)
Seeking a variance from section 224-10 of the Zoning Code to permit a site capacity determination of two single family dwelling units.

New Matters

2004-03 Meredith Vieira / Richard Cohen - 11 Dows Lane (Sheet 7B; Block 249; Lot 1A)
Seeking a variance from sections 224-13 (coverage) and 224-51C(1) Aqueduct Buffer of the Village Code in order to permit the extension of an existing residence.

2004-04 Harriet and Barry Leitner - 56 Ridgeway Drive (Sheet 10G; Block 2; Lot 56)
Seeking a variance from section 224-89A(1) (existing, non-conforming) of the Village Code in order to permit the replacement and extension of an existing deck.

2004-05 Kevin and Suzanne Chase - 134 Fieldpoint Drive (Sheet 10G; Lot P134)
Seeking a variance from sections 224-89A(1) (existing, non-conforming) and 224-11 (side yard setback) of the Village Code in order to permit the construction of a second-story dormer to the rear of the existing residence.

2004-06 Michael and Shari Katz - 95 Highland Lane (Sheet 10G; Lot P95)
Seeking a variance from section 224-89A(1) (existing, non-conforming) of the Village Code in order to permit the construction of a one-story addition to the rear of the existing residence.

2004-07 Risa Wells and Israel Perlson - 42 Ardsley Avenue East (Sheet 15; Lot P129) Seeking a variance from section 224-89A(1) (existing, non-conforming) of the Village Code in order to permit the construction of an addition to the existing residence.

Nicodemus

Mr. Charles Pateman presented his position on what he viewed as the uniqueness of the parcel under discussion, asserting that the neighborhood would be improved by building the residence he plans. He acknowledged that the site is a corner lot, requiring a 50-foot setback from both of the traveled ways. However, he cited the 1961 letter to the Nicodemuses from Mr. Ernest S. Stubing, which he offered as suggesting that only a 25-foot setback would be required.

Mr. Jon Elwyn, a neighbor, opposed the request for a 25-foot setback variance. He cited the potential visual impact of a substantial new residence, and wondered whether the ownership of Hermit's Road was fully ascertained. Mr. Elwyn also expressed concerns about the sequence of zoning actions taken in relation to the project, involving subdivision, permits and variances. He contended that it was time to inquire into the reasonableness of the full proposal, rather than focusing on discrete issues raised by it.

Mr. Clark asked about the Southwest corner of the planned residence, inquiring whether it was located within the current area of water flow across the parcel. Mr. Pateman responded that, once the project is undertaken, the water will be piped rather than flowing on the surface, even in storms that exceed the calculated 100-year level. Mr. Clark asked whether Mr. Pateman had considered other building options, other than the approximately 4500-square-foot residence depicted on his submissions. Mr. Pateman did not provide a clear response to this question.

Mr. Semetis inquired about other properties on Mountain Road, and about Mr. Elwyn's contention (in written submissions of March 18 to the Board) that the planned home would considerably exceed, in total area, the existing average home size in the neighborhood. Mr. Pateman said that the nearby homes cited by Mr. Elwyn were an incomplete set, stating that his own home, comparable in size to the planned construction, had been omitted from Mr. Elwyn's list. He also contended that a recently granted variance in the neighborhood, to property owners named Hall, had permitted a notably large addition to be erected. Mr. Pateman said he recognized that Mr. Stubing had not had authority to depart from the Village's zoning requirements,

but that the Nicodemuses had relied upon his 1961 statement nevertheless.

Mr. Mitchell asked whether a depiction of the planned residence at the site could have been provided, together with the varied graphic submissions from the applicants. Mr. Pateman said he had done so long ago, and could procure a copy of that illustration quite rapidly. The chair stated that Mr. Pateman should not send for that exhibit during the meeting.

After these colloquies, Mr. Pateman suggested that he might withdraw the application for a variance. He stated that he could build the project without a setback variance. After consultation among the applicants, and between them and the chair, it was decided to adjourn the matter. Among other concerns, the chair stated that Mr. Pateman should have an opportunity to read Mr. Elwyn's full submission of March 18, which Mr. Pateman stated he had not yet received.

Lundy

The applicants stated that the surveyor had completed his work, and submitted drawings and measurements asserting that the two planned houses can be built without adverse effects on the floodplain. The chair asked what the "ponding effect" was. Mr. Ronald Wegner, the engineer

speaking for the applicants, stated that in the ponding effect, water rises upstream of the culvert running under Downing Lane, in periods of heavy rain. The chair inquired whether, in a 100-year storm, ponding might push water above the 162-foot level; Mr. Wegner replied that instead, water would flow over ("overtop") Downing Lane to find an outlet.

Mr. Robert Munigle, a neighbor, asserted that runoff from the applicants' new construction would be likely to flow onto his parcel, just West of the parcel in question. Mr. Wegner differed with that view, declaring that the construction would instead push the water towards the North in a heavy rain, and indeed that water would flow from Mr. Munigle's property onto the applicants' lot (#15). Discussion ensued on whether the planned houses conformed to height restrictions, and on further matters concerning the floodplain.

Several neighbors spoke, who had not appeared at earlier hearings on the Lundy application. One asked whether the variance requested would be considered a major one. The applicants responded that the new floodplain regulations came into effect in 1989, and that if they were to be proposed today, many existing houses in the neighborhood would require variances. Another neighbor

wondered whether the culvert would be free-flowing. The applicants responded that their calculations made allowance for blockage in the culvert, which might be one cause of water overtopping Downing Lane.

Mr. Clark inquired about the economics of the two structures, and whether building one larger residence had been considered. The applicants' representatives responded that building one larger structure would be out of scale with the neighborhood.

The chair noted that in his view the questions raised by neighboring property owners had been answered, and that the objectants had had an opportunity to read the relevant correspondence at the Building Inspector's office. After some discussion, however, the Board voted 3 to 2 to adjourn the application to the Board's next meeting, so that neighbors might have an additional chance to read the letters bearing on the project. The Board stated that any comments or objections to the application were to be filed with the Village Clerk, in writing, on or before April 13, 2004.

Vieira / Cohen

The applicants' lawyer, David S. Steinmetz, Esq., stated that the project involved re-configuring the

property's driveway, expanding the house and adding a concrete spa near the existing swimming pool. He noted that the existing driveway did not conform with setback requirements, and that part of the planned new one would be only slightly closer to the Croton Aqueduct. The applicants plan new plantings to provide an additional screen for walkers on the Aqueduct; it was agreed that added plantings sufficient to screen the view from the Aqueduct would be a condition of a variance. The New York State Office of Parks, Recreation and Historic Preservation has stated in writing it has no objection to the planned driveway alteration, and the Irvington Village Environmental Conservation Board also does not object.

On the issue of coverage, Mr. Steinmetz stated that the property today exceeds the allowed coverage, primarily due to the tennis court. The proposal would add 610 square feet to the coverage, which Mr. Steinmetz asserted was not a substantial addition, with no adverse impact and no feasible alternative.

There was an exchange with Mr. Clark about the plan to remove three trees from the North side of the property, to improve the views from, and the appearance of, the renovated house.

The Board voted to grant the requested variances by a vote of 4-0; Mr. Clark recused himself as a near neighbor to the property.

Leitner

The chair noted that the Fieldpoint development, as a cluster project, constitutes a massive exception to the zoning code, where many non-conforming setbacks and the like were approved by the Village during the planning process. He also stated that, when the Architectural Review Committee of the Fieldpoint Community Association has reviewed a proposed alteration and given its approval, great weight has traditionally been assigned by the Zoning Board to those reviews. (The Leitner, Chase and Katz applications had all been so approved.)

Mr. Leitner presented photographs and drawings depicting the existing and planned constructions. After discussion, by a vote of 5-0 the requested variance was granted.

Katz

The planned addition was found to be small and inconspicuous. After discussion, by a vote of 5-0 the requested variance was granted.

Chase

The planned dormer was found to be in harmony with the neighborhood, both in size and in the intended materials and finishes. After discussion, by a vote of 5-0 the requested variance was granted.

Wells / Perlson

The applicants' architect, Mr. Tobias Guggenheimer, presented the project, for an addition to accommodate the health needs of one of the owners. Mr. Guggenheimer noted that the lot coverage following construction would still be below the permissible level, and that the variance was needed because the lot's overall size was non-conforming. After discussion, by a vote of 5-0 the requested variance was granted.

There being no further business to come before the meeting, it was, upon motion duly made and seconded, unanimously adjourned.

Christopher Mitchell